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Title 48 - Environmental Protection and Conservation

CHAPTER 60.

SOUTH CAROLINA MANUFACTURER RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT

SECTION 48-60-05. Short title.

This chapter may be cited as the "South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act".

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-10. Legislative findings.

The General Assembly finds:

- (1) Televisions, computing, and printing devices are critical to the development of this state's economy and the promotion of the quality of life of the citizens of this State.
- (2) Many of these televisions, computing, and printing devices can be refurbished and reused, or recycled.
- (3) Developing and implementing a system for recovering televisions, computing, and printing devices promotes resource conservation, public health, public safety, and economic prosperity.
- (4) In order to carry out these purposes, the State must establish a comprehensive and convenient recovery program for televisions, computing, and printing devices based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government, and that the program must ensure that end-of-life televisions, computing, and printing devices are disposed of in a manner that promote resource conservation through the development of an effective and efficient system for collection and recycling, and to encourage manufacturers to offer convenient collection and recycling service to consumers at no charge.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-20. Definitions.

As used in this chapter:

- (1) "Collect" or "collection" means to facilitate the delivery of a covered device to a collection site included in the manufacturer's program, and to transport the covered device for recovery.
- (2) "Computer manufacturer" means a person who:
 - (a) manufactures a covered computer device under its own brand for sale or without affixing a brand;
 - (b) sells in this State a covered computer device produced by another supplier under its own brand or label;
 - (c) imports covered computer devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer; or
 - (d) manufactures a covered computer device, supplies a covered device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.
- (3) "Consumer" means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.
- (4) "Covered computer device" means a desktop or notebook computer, computer monitor, or printing device marketed and intended for use by a consumer, but does not include a covered television device.
- (5) "Covered devices" means a covered computer device and a covered television device marketed and intended for use by a consumer. "Covered device", "covered computer device", and "covered television device" do not include any of the following:
 - (a) a covered device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;
 - (b) a covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, emergency services purposes or equipment designed and

intended primarily for use by professional users;

(c) a covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment; or

(d) telephones of any type, including mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand-held gaming device.

(6) "Covered television device" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(7) "Department" means the South Carolina Department of Health and Environmental Control.

(8) "Manufacturer's brands" means a manufacturer's name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer has legal responsibility.

(9) "Person" means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, government entity, public benefit corporation, or public authority.

(10) "Recover" means to reuse or recycle.

(11) "Recoverer" means a person or entity that reuses or recycles a covered device.

(12) "Retail sale" means the sale of a new product through a sales outlet, the Internet, mail order, or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.

(13) "Retailer" means a person engaged in retail sales.

(14) "Sale" or "sell" means any transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not mean leases.

(15) "Television" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(16) "Television manufacturer" means a person who:

(a) manufactures covered television devices under a brand that it licenses or owns, for sale in this State;

(b) manufactures covered television devices without affixing a brand for sale in this State;

(c) resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;

(d) imports covered television devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer;

(e) manufactures covered television devices, supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale in this State of those covered television devices through the distribution network; or

(f) assumes the responsibilities and obligations of a television manufacturer under this chapter. In the event the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be included in the definition of television manufacturer under items (a) or (c) above.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-30. Computer or television manufacturer to provide label on covered devices.

A computer or television manufacturer may not sell or offer to sell a covered device unless a label indicating the computer or television manufacturer's brand is permanently affixed to the covered device in a readily visible location.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-40. Computer manufacturer to provide recovery program or financial incentive of equal or greater value for sales or offers of sale of covered computer devices.

(A) A computer manufacturer may not sell or offer to sell in this State a covered computer device unless the computer manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon. A recovery program must:

(1) require a computer manufacturer to offer to collect from a consumer a covered computer device bearing a label as provided in Section 48-60-30; and

(2) make the collection service as convenient to a consumer as the purchase of a covered computer device from a computer manufacturer as follows:

(a) A computer manufacturer may utilize a mail-back system in which a consumer can return an end-of-life covered device by mail, including a system in which a consumer can go online, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the computer manufacturer.

(b) If the computer manufacturer does not provide a mail-back system, the computer manufacturer must provide collection sites or collection events, or both, that are centrally located in a county, region, or other locations based on population. Computer manufacturers shall work in coordination with the department to determine an appropriate number of collection sites or collection events, or both.

(B) A recovery program may use existing collection and consolidation infrastructure for collecting covered devices, including retailers, recyclers, and reuse organizations.

(C) Computer manufacturers may work collectively and cooperatively to offer collection services to consumers.

(D) A recovery program must be described on a computer manufacturer's Internet website if a manufacturer maintains an Internet website.

(E) Collection events under this section must accept any covered computer device.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-50. Television manufacturer to provide recovery program or financial incentive of equal or greater value for sales or offers of sale of covered television devices; annual recycling; contact information provided to department.

(A) No television manufacturer shall sell or offer for sale a covered television device in this State unless the television manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon.

(B) Beginning on the effective date of this chapter through June 30, 2012, a television manufacturer annually must recycle or arrange for the recycling of covered

televisions.

(1) Beginning program year 2012, a television manufacturer annually must recycle or arrange for the recycling of its market share of covered television devices pursuant to this section. Market share, as used in this chapter, is the total weight of the manufacturer's televisions that were sold at retail in the United States to individuals during the previous program year, multiplied by the population fraction of South Carolina to the United States population, divided by the total weight of all of the televisions that were sold at retail to individuals in South Carolina during the previous program year. The individual recycling obligation for each television manufacturer is the total pounds of television recycled by all television manufacturers during the previous program year multiplied by the manufacturer's market share as calculated above. The population fraction is determined by using the most recent United States Census data for the total population of South Carolina divided by the total population of the United States.

(2) The department shall notify each television manufacturer of its market share recycling obligation. A television manufacturer shall provide the department information necessary for the department to calculate market share and to determine each television manufacturer's recycling obligation.

(3) A television manufacturer shall report to the department the total weight of manufacturer's televisions sold at retail in the United States, the state specific television sales data annually calculated using the population fraction of South Carolina to the United States population, and the total weight of televisions collected and recycled in the State during the previous program year.

(4) The program year for a recovery program under this section is the state's fiscal year.

(C) A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers. A recovery program may use existing collection and consolidation infrastructure for collecting covered television devices, including retailers, recyclers, and reuse organizations.

(D) A television manufacturer shall provide the department with contact information for the manufacturer's designated agent or employee whom the department may contact for information related to the manufacturer's compliance with the requirements of this section.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-60. Liability of computer or television manufacturers.

A computer or television manufacturer may not be liable for damages arising from information stored on a covered device collected from a consumer under the manufacturer's recovery programs of this chapter.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-70. Retailer sale requirements; exception.

(A) A retailer only may sell or offer to sell a covered device that:

(1) bears a manufacturer label as provided in Section 48-60-30; and

(2) is manufactured by a manufacturer that offers a recovery program as provided in Sections 48-60-40 and 48-60-50.

(B) The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-80. Liability of retailer.

A retailer may not be liable for damages arising from information stored on any covered device collected from a consumer under the manufacturer's recovery program.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-90. Consumers placing or discarding covered devices in waste stream that is to be disposed of in a solid waste landfill; duty of owner of solid waste landfill.

(A) After July 1, 2011, a consumer must not knowingly place or discard a covered device or any of the components or subassemblies of a covered device in any waste stream that is to be disposed of in a solid waste landfill.

(B) An owner or operator of a solid waste landfill must not, at the gate, knowingly accept, for disposal, loads containing more than an incidental amount of covered devices.

(C) The owner or operator of a solid waste landfill must post, in a conspicuous location at the landfill, a sign stating that covered devices or any components of covered devices are not accepted for disposal at the landfill.

(D) The owner or operator of a solid waste landfill must notify, in writing, all haulers delivering solid waste to the landfill that covered devices or any components of covered devices are not accepted for disposal at the landfill.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-100. Department to provide information to the public; fees for recovery process.

(A) The department shall provide information to the public on its Internet website regarding the provisions of the chapter and the prohibition on disposing of covered devices in a solid waste landfill. The department also shall provide information about recovery programs available in the State on the department's Internet website. The website must include information about collection options available, the definition of covered devices, the proper methods for disposing of covered devices, the proper methods for disposing noncovered devices, and links to relevant portions of computer or television manufacturer's Internet websites.

(B) Any local government eligible to participate in the statewide Electronic Equipment Recycling Services (EERS) contract with the South Carolina Budget and Control Board may not charge a consumer a fee at any point of the recovery process.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-110. Audits and inspection by department.

The department may conduct audits and inspection of a computer or television manufacturer, retailer, or recoverer to determine compliance with this chapter's provisions, and may establish by regulation administrative fines for violations of this chapter.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-120. Exemptions from public disclosure.

Financial and proprietary information submitted to the department pursuant to this act is exempt from public disclosure.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-130. Annual solid waste report to contain information provided by manufacturers.

The department shall include in its annual solid waste report information provided by manufacturers on recovery programs offered pursuant to this chapter.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-140. Recovery of covered devices to comply with law; recoverer minimum compliance.

(A) Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements.

(B) Recoverers must at a minimum comply with the responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries or other comparable industry or governmental standards.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

SECTION 48-60-150. Promulgation of regulations; fee requirements.

The department shall promulgate regulations needed to implement this chapter's provisions including, but not limited to, reporting requirements, manufacturers' plans, manufacturers' annual reports, and standards for operations of recovery facilities. The department may propose by regulation, which must be submitted to the General Assembly pursuant to the Administrative Procedures Act, an initial registration fee or annual fee, or both, on computer or television manufacturers of covered devices, the proceeds of which must be used solely for the purposes of implementing the provisions of this chapter. Any fee proposed by the department must be graduated based on the computer manufacturer's volume of sales in this State. Any registration fee or annual fee for television manufacturers must be based on market share as defined in this chapter. A manufacturer of a covered device that sells one thousand or less per year is exempt from any fee.

HISTORY: 2010 Act No. 178, Section 1, eff July 1, 2011.

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